

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

TOBY GODFREY,

Plaintiff,

v.

RICHARD HARRINGTON, UNKNOWN)  
PARTY, SERGEANT HEIMAN,)  
SERGEANT ELADVOR,

Defendants.

Case No. 3:13-cv-280-NJR-DGW

**ORDER**

**WILKERSON, Magistrate Judge:**

Now pending before the Court are the Motion to Appoint Counsel (Doc. 81), the Motion to Amend Complaint (Doc. 82), the Motion Requesting Docket Sheet (Doc. 84), and the Motion Requesting Status (Doc. 85) filed by Plaintiff, Toby Godfrey. The Motion to Appoint Counsel is **DENIED**, the Motion to Amend is **GRANTED**, and the Motions for Status and Docket Sheet are **DENIED**.

For the reasons set forth in this Court's previous Order, namely that Plaintiff appears capable of prosecuting this matter without counsel, an attorney will not be recruited in this matter. Plaintiff's Motion for Recruitment of Counsel is accordingly **DENIED**. Plaintiff further requests a status update and a copy of the docket sheet. On September 2, 2014, a one-time courtesy copy of the docket sheet was mailed to Plaintiff by the Clerk of Court. If plaintiff requires an additional docket sheet, he must tender payment of \$0.50 per page. This fee is not waived in light of Plaintiff's *in forma pauperis* status. If Plaintiff requires a copy of the docket sheet, he should inquire with the Clerk of Court as to the cost. These two Motions are also **DENIED**.

Finally, Plaintiff seeks to amend his complaint in order to provide a name for the Unknown

Party, a medical provider, who is the subject of Count 4, deliberate indifference to a serious medical condition. Federal Rule of Civil Procedure 15 provides that this Court may grant leave to amend the complaint and that leave should be freely given. The amended pleading adds no substantive claims but merely replaces the unknown party with Dr. Michael Moldenhauer. Defendants have not objected to the Motion. The Clerk of Court is accordingly **DIRECTED** to file the Second Amended Complaint which is construed to contain two claims, that Defendants Heiman and Eladvor failed to protect Plaintiff from harm in violation of the Eighth Amendment (Count 1) and that Defendant Moldenhauer was deliberately indifferent to Plaintiff's serious medical needs in violation of the Eighth Amendment (Count 4). Defendant Harrington is also retained in this suit to perfect any injunctive relief ordered.

The Clerk of Court shall prepare for Defendant **DR. MICHAEL MOLDENHAUER**: (1) Form 5 (Notice of a Lawsuit and Request to Waive Service of a Summons), and (2) Form 6 (Waiver of Service of Summons). The Clerk is **DIRECTED** to mail these forms, a copy of the complaint, and this Memorandum and Order to the Defendant's place of employment, the Menard Correctional Center. If Defendant **DR. MICHAEL MOLDENHAUER** fails to sign and return the Waiver of Service of Summons (Form 6) to the Clerk within 30 days from the date the forms were sent, the Clerk shall take appropriate steps to effect formal service on **DR. MICHAEL MOLDENHAUER**, and the Court will require that **DR. MICHAEL MOLDENHAUER** pay the full costs of formal service, to the extent authorized by the Federal Rules of Civil Procedure.

If **DR. MICHAEL MOLDENHAUER** no longer can be found at the Menard Correctional Center, the employer shall furnish the Clerk with the Defendant's current work address, or, if not known, the Defendant's last-known address. This information shall be used only for sending the forms as directed above or for formally effecting service. Any documentation of

the address shall be retained only by the Clerk. Address information shall not be maintained in the court file or disclosed by the Clerk.

**IT IS SO ORDERED.**

**DATED: February 9, 2015**



**DONALD G. WILKERSON**  
**United States Magistrate Judge**